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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,887	07/14/2005	Francis LaRoche	BDM-05-1111	9729
35811 7590 09/28/2007 IP GROUP OF DLA PIPER US LLP ONE LIBERTY PLACE 1650 MARKET ST, SUITE 4900 PHILADELPHIA, PA 19103			EXAMINER GEHMAN, BRYON P	
			ART UNIT 3728	PAPER NUMBER
			MAIL DATE 09/28/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/533,887

Applicant(s)

LAROCHÉ, FRANCIS

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19,21-23,25-27,29-31 and 33-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19,21-23,25-27,29-31 and 33-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3728

1. Applicant's election without traverse of the species of Figures 7-10 in the reply filed on August 3, 2007 is acknowledged.

2. At present there are not seen to be provided any drawings, formal or otherwise with this application. The drawings found and employed to examine the application are all parts of other parts of the application, but no set of drawings particular to this application are of record.

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 27 is finally rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. At present, it is not seen that the subject matter of claim 27 is disclosed in the elected embodiment of Figures 7-10, as the subject matter is not shown therein.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 25-26 and 34 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In each of claims 25 and 26, "at least one of the stops" is inconsistent with claim 19, line 5, "at least one elastically deformable stop", as only plural stops are defined by the second recitation. Also in claim 25, line 2, "one of the slots" is inconsistent with claim 19, line 4, where only one slot is defined.

In claim 34, such is at least partially redundant as it refers to the previously defined stop.

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 19, 21-23, 25-26, 30-31 and 33-35 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Shindo et al. (6,837,370). Claims 19, 21-22, 25-26, 30-31, 33 and 35 are finally rejected under 35 U.S.C. 102(e) as being anticipated by Kleine-Moellhoff (2002/0020643). Claims 19, 21-23, 25-26, 30-31, 33 and 35 are finally rejected under 35 U.S.C. 102(b) as being anticipated by McCamy et al. (5,690,218).

Art Unit: 3728

Each discloses a package for a disk, the package formed by a plate (11; 3; 5; respectively) with a disk centering piece (16 between the planar top of 11 and 20; 6; 50) and a bottom (20; 5; 10), wherein the plate has a cylindrical cavity for receiving the disk and comprises at least two radial shoulders (25; at 14 or 8; 12) defined to cover a marginal zone of the disk and define with an upper surface of the bottom a slot approximately equal to the thickness of the disk wherein the plate has at least one elastically deformable stop arranged on the periphery of the cavity comprising at least one foot (26; 17; 12A) having a convex shape directed toward the cylindrical cavity.

As to claim 21, each discloses the cavity diameter greater than the disk.

As to claim 22, each discloses an oval shape (oval including circular).

As to claim 23, Shindo et al. and McCamy et al. each disclose an annular band defining an engagement groove (20 and 25; between 12 and 10) corresponding approximately to the thickness of the disk.

As to claims 25 and 26, each discloses at least one stop and a slot as described above.

As to claims 30-31, each discloses one of the shoulders covering a zone or distance in the range of 5% or less of the diameter of the disk.

As to claim 33, each discloses the shoulders being inherently elastically deformable to some degree to receive the edge of the disk.

As to claim 34, Shindo et al. disclose a lug (27) that extends several tenths of a millimeter above the cavity.

As to claim 35, each discloses a central annular island (6; at 50).

Art Unit: 3728

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 29 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 19 above, and further in view of Spugios et al. (2,691,440). Spugios et al. disclose a cylindrical cavity (defined by 13) prolonged by a prehension zone (17) formed by a hollow portion emptying into the cavity. To provide the structure of any one of the base references with a prehension zone opposite a shoulder would have been obvious in view of Spugios et al. in order to remove a disk from the cavity, as suggested by Spugios et al..

11. Claim 36 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 19 above, and further in view of Hoogland (2003/0126839). To provide the structure of any one of the base references with multiple cavities would have been obvious in view of Hoogland in order to receive and secure multiple discs in the same package, as suggested by Hoogland.

12. Applicant's arguments with respect to claims 19, 21-23, 25-27, 29-31, 33-36 have been considered but are moot in view of the new grounds of rejection.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Tuesday through Thursday from 7:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3728

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Bryon P. Gehman  
Primary Examiner  
Art Unit 3728

BPG